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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,491	06/27/2003	Clifford Hannel	1004-P03073US	8644
33356 7590 02/04/2008 SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362			EXAMINER BATES, KEVIN T	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 02/04/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/608,491

Applicant(s)

HANNEL ET AL.

Examiner

Kevin Bates

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 28-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

This Office Action is in response to a communication made on August 6, 2007.

The Information Disclosure Statement received August 6, 2007 has been considered.

Claims 1-27 have been withdrawn has non-elected claims

Claims 28-44 are pending in this application.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 28-34, 36-37, 39-40, 42-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollis (6804777).**

**Regarding claims 28 and 32, Hollis teaches a system comprising:**

a first computing device coupled to a first network (Figure 2, element 270, the user workstation);

a second computing device having a network device included therein, the network device coupled to a second network, the second computing device coupled to the first network (Figure 2 teaches the first computer as the user workstation. The user

work station sends packets over the network through element 270 to the channel gateway. Figure 3B teaches the channel gateway. The gateway is equivalent to the second computer. The gateway is connected to the first network at element 330), the second computing device including software which when executed causes the second computing device to perform operations comprising:

accepting a connection request from the first computing device over a communication channel on the first network (Column 7, lines 8 – 24);

forwarding to the first computing device via the communication channel incoming data units received by the network device over the second network (Column 8, lines 55 – 67),

receiving from the first computing device via the communication channel outgoing data unit requests to send outgoing data units onto the second network via the network device (Column 8, lines 37 – 46).

**Regarding claim 29**, Hollis teaches the system of claim 28 wherein the communication channel is a tunnel (Column 9, lines 1 – 8).

**Regarding claim 30**, Hollis teaches the system of claim 29 wherein the first computing device includes a first tunnel device and the second computing device includes a second tunnel device, the tunnel established between the first tunnel device and the second tunnel device (Column 9, lines 1 – 8).

**Regarding claim 33**, Hollis teaches the system of claim 32 wherein the first computing device includes a first communication device and the second computing device includes a second communication device, the communication channel

established between the first communication device and the second communication device (Column 7, lines 8 – 24).

**Regarding claims 31 and 34**, Hollis teaches the system of claims 30 and 33 wherein the first tunnel device and the second tunnel device are each network interface devices (Figure 3 and Figure 3B, where a user workstation and a channel gateway are interfacing with the network).

**Regarding claims 36, 39, and 42**, Hollis teaches a method for allowing a computing device to access the capabilities of a network device via a virtual interface comprising:

establishing over a first network a communication channel with the computing device (Column 7, lines 8 – 24);

associating a network interface of the network device with the communication channel (Column 9, lines 22 – 31, where all messages are verified to determine if they are correctly associated with the VPN);

receiving over a second network incoming data units directed to the network interface of the network device (Column 8, lines 55 – 67);

forwarding the incoming data units to the computing device via the communication channel (Column 8, lines 37 – 46).

**Regarding claims 37, 40, and 43**, Hollis teaches the method of claims 36, 39, and 42 further comprising: receiving via the communication channel outgoing data unit requests from the computing device, the outgoing data unit requests including an identifier of a specified network interface (Column 10, lines 17 – 31); transmitting

outgoing data units pursuant to the outgoing data unit requests onto the second network via the specified network interface (Column 8, lines 55 – 67).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 38, 41, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollis in view of Summers (7124189).**

**Regarding claims 38, 41, and 44,** Hollis teaches the method of claims 36, 39, and 42.

Hollis does not explicitly indicate that the establishing the communication channel includes using a transmission control protocol (TCP) socket to create a tunnel.

Summers teaches a system for setting up a VPN that includes using a transmission control protocol (TCP) socket to create a tunnel (Column 4, lines 1 – 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Summer's teaching of implementing the VPN in TCP using sockets in order to provide the VPN in Hollis' system to be provided in TCP networks.

**Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollis in view of Gilbrech (6173399).**

**Regarding claim 35,** Hollis teaches the system of claim 32.

Hollis does not explicitly indicate that the first network is an Ethernet network.

Gilbrech teaches the system of providing a gateway for implementing a VPN that includes a Ethernet connection as one of the networks (Column 5, line 60 – Column 6, line12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Gilbrech's teaching of having an Ethernet/LAN connection as part of the VPN network in order to allow the VPN to travel through both LANs and WANs in Hollis' system.

### ***Response to Arguments***

Applicant's arguments filed November 28, 2007 have been fully considered but they are not persuasive.

Regarding claim 28, the applicant argues that the Hollis reference does not teach (1) a network device coupled to the second computing device through a second network, (2) forwarding to the first computing device via the communication channel incoming data units received by the network device over the second network, or (3) receiving from the first computing device via the communication channel outgoing data unit requests to send outgoing data units onto the second network via the network device.

(1) Regarding the idea that that Hollis does not teach a network device, the applicant argues that the external resource seen in Figure 3B, element 370 is not a network device connected to the gateway through a second network. The examiner disagrees, as seen in Figure 3B and Column 8, lines 64 – 67; Column 9, lines 30 – 36, Hollis teaches that the channel gateway can be connected to an **external** resource. External meaning that the resource is not directly within the gateway like the server application taught in Figure 3A. The external resource is not limited to a "disk drive" as the applicant argues, but the symbol also works in the field for descriptions such as databases which can be stand alone devices on a network. The fact that the device is external to the gateway shows there must be some hardware connection between the two and since that connection is not part of the first network connection show in Figure 2, element 270 and Figure 3B element 330, it can be labeled as a second network.

(2) and (3) Regarding the idea that Hollis does not teach forwarding to the first computing device (the user workstation) data units received by the network device or receiving data unites from the first computing device, Hollis teaches in Column 8, lines 50 - 55, that traffic or "data units" travel both ways between the user application in the user workstation and the gateway and the targeted resources (external resources).

Regarding claim 39, the applicant argues that is should no be grouped with claims 36 and 42. The examiner disagrees, the differences noted by the applicant are only present in the preamble of the claim, thus contain no patentable differences.

Regarding claim 36, the applicant argues that Hollis does not teach a network device included in a second computer device via a virtual interface. The examiner

disagrees, Figure 3A teaches a network appliance located within the gateway that and is connected through a virtual interface, element 334.

Regarding claim 37, the applicant argues that Hollis does not teach outgoing data unit requests from the first computing device. Once again shown in column 8, lines 50 – 55, Hollis teaches that there is a two way data flow between the first and second computing device.

Regarding claim 39, the applicant argues that Hollis does not teach the network testing system as claimed. The examiner disagrees, as shown in the mapping to the claim, Hollis meets all the limitations of the claim, and the testing network limitations are only located within the preamble and constitute non-functional descriptive language.

Regarding claim 42, the applicant argues that Hollis does not teach a network card performing the listed steps. The examiner disagrees, once again the applicant is arguing limitations that are only located within the preamble and not given any weight.

Regarding the applicant's repeated pleas for a new office action to cure deficiencies of the office action, the examiner disagrees that the action is deficient and believes the art and action is clear. If the applicant needs further help clarifying the rejection is he free to call the examiner during the stated office hours.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/608,491  
Art Unit: 2153

Page 10

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Q R T Bt

Kevin Bates  
January 29, 2008

*Thu Ha Nguyen*  
THU HA NGUYEN  
PRIMARY EXAMINER